

ESTTA Tracking number: **ESTTA388517**

Filing date: **01/14/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91197754
Party	Defendant Lavatec, Inc.
Correspondence Address	LAVATEC, INC 300 GREAT HILL ROAD NAUGATUCK, CT 06770-2000 UNITED STATES
Submission	Answer
Filer's Name	John C. Linderman
Filer's e-mail	lind@ip-lawyers.com, twilley@ip-lawyers.com, soucy@ip-lawyers.com
Signature	/John C. Linderman/
Date	01/14/2011
Attachments	Answer.pdf ( 5 pages )(54765 bytes )

IN THE UNITED STATES PATENT & TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Trademark Application No. 76701998  
for the mark: LAVATEC  
Published on November 2, 2010

_____	)	
Wolf-Peter Graeser,	)	
	)	
Opposer	)	
	)	Opposition No. 91197754
v.	)	
	)	
Lavatec, Inc.	)	
	)	
Applicant	)	
_____	)	

**APPLICANT'S ANSWER TO NOTICE OF OPPOSITION**

Applicant, Lavatec, Inc., sets forth below its Answer to the Notice of Opposition filed by Opposer, Wolf-Peter Graeser, and states, for the respective paragraphs of the Notice, as follows:

1. Denied as to the United States, and as to elsewhere Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
2. Denied as to the United States, and as to elsewhere Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
3. Denied as to the United States, and as to elsewhere Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.

4. Denied as to the United States, and as to elsewhere Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
5. Denied as to the United States, and as to elsewhere Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
6. Denied that Opposer is the owner of common law rights in the Mark in the United States, and as to remainder of the allegations, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
7. Denied as to the United States, and as to remainder of the allegations, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
8. Admitted.
9. Denied as to the United States, and as to elsewhere Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
10. Admitted.
11. Admitted.
12. Admitted.
13. Denied.
14. Applicant admits that it was formed by Lavatec Germany, and was under the control of Lavatec Germany, but otherwise, denies the allegations.
15. Applicant admits that it was never granted a license or assigned the Mark, nor did Applicant attempt to register the Mark before March 2010, but otherwise denies the allegations.
16. Applicant admits that it has manufactured folders and washer extractors, but otherwise denies the allegations.
17. Denied.

18. Admitted that Lavatec Germany incorporated Applicant, its wholly owned subsidiary, and Applicant acted as a sales office, but otherwise denies the allegations.
19. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
20. Denied that Opposer purchased the assets of Lavatec Germany including its worldwide intellectual property, and as to the remaining allegations, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
21. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
22. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
23. Admitted that Opposer is not selling Products to Applicant, and as to the remaining allegations, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
24. Admitted.
25. Denied.
26. Denied
27. Admitted that some of the photographs in the specimens show Products in facilities of clients of Lavatec Germany, but otherwise the allegations are denied.
28. Admitted that Applicant's Mark LAVATEC and Opposer's Mark LAVATEC are identical, but otherwise the allegations are denied.
29. Denied.
30. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegation that Opposer has received inquiries requesting clarification, and denies the remainder of the allegations.
31. Denied.
32. Denied.

- 33. Denied.
- 34. Admitted that Applicant's Mark LAVATEC and Opposer's Mark LAVATEC are identical, but otherwise the allegations are denied.
- 35. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies the allegations.
- 36. Denied.
- 37. Denied.
- 38. Denied.
- 39. Denied.
- 40. Denied.
- 41. Admitted.

WHEREFORE, Applicant, Lavatec, Inc., for its prayer for relief, requests that the Board dismiss the Notice of Opposition and that its application for registration be granted.

Respectfully requested  
LAVATEC, INC.

By s/ John C. Linderman  
John C. Linderman  
Richard J. Twilley  
McCormick, Paulding & Huber LLP  
185 Asylum Street, CityPlace II  
Hartford, CT 06103-3410  
Ph. 860 549-5290  
[lind@ip-lawyers.com](mailto:lind@ip-lawyers.com)  
[twilley@ip-lawyers.com](mailto:twilley@ip-lawyers.com)  
Attorneys for Applicant

CERTIFICATE SERVICE

The undersigned hereby certifies that a copy of the foregoing

## **APPLICANT'S ANSWER TO NOTICE OF OPPOSITION**

was sent by email and served by First Class U.S. Mail, postage prepaid this 14th day of January 2011, to the following counsel of record:

Andrea Fiocchi, Esq.  
Sarah E. Tallent, Esq.  
44 Wall Street, 10<sup>th</sup> Fl  
New York, NY 10005

By s/John C. Linderman  
John C. Linderman